



**SENATE AMENDMENT 1,
TO ASSEMBLY AMENDMENT 2,
TO 2009 SENATE BILL 530**

April 22, 2010 – Offered by Senator Sullivan.

*** AUTHORS SUBJECT TO CHANGE ***

1 At the locations indicated, amend the amendment as follows:

2 **1.** Page 1, line 4: delete the material beginning with that line and ending with
3 page 3, line 12.

4 **2.** Page 3, line 15: delete “or title”.

5 **3.** Page 4, line 8: on lines 8, 15, 22, and 24, delete “or title”.

6 **4.** Page 4, line 10: delete “and title loans and the payday and title loan” and
7 substitute “loans and the payday loan”.

8 **5.** Page 4, line 12: on lines 12 and 21, delete “and title”.

9 **6.** Page 4, line 16: delete “or title loan applicant should use a payday or title”
10 and substitute “loan applicant should use a payday”.

11 **7.** Page 5, line 1: on lines 1 and 4, delete “or title”.

1 **8.** Page 5, line 14: delete lines 14 to 17.

2 **9.** Page 6, line 1: delete lines 1 and 2.

3 **10.** Page 6, line 6: delete the material beginning with that line and ending
4 with page 9, line 11.

5 **11.** Page 9, line 11: after that line insert:

6 “62m. Page 29, line 12: after that line insert:

7 “**SECTION 14m.** 138.16 of the statutes is created to read:

8 **138.16 Title loans. (1) DEFINITIONS.** In this section:

9 (a) “Division” means the division of banking attached to the department of
10 financial institutions.

11 (b) “Licensed lender” means a person licensed under s. 138.09.

12 (c) “Title loan” means a loan of \$25,000 or less to a borrower, who obtains or
13 seeks to obtain the loan for personal, family, or household purposes, that is, or is to
14 be, secured by an interest, other than a purchase money security interest, in the
15 borrower’s motor vehicle, and that has an original term of not more than 6 months.

16 **(2) LOAN PRINCIPAL AND INTEREST.** (a) No licensed lender may make a title loan
17 to a borrower that results in the borrower having liability for the loan, in principal,
18 of more than 50 percent of the value of the motor vehicle used as security for the loan.
19 The division shall promulgate rules for determining the value of a motor vehicle for
20 purposes of this paragraph, including rules specifying pricing guides that may be
21 used for determining value.

22 (b) 1. This section imposes no limit on the interest that a licensed lender may
23 charge before the maturity date of a title loan.

1 2. If a title loan is not paid in full on or before the maturity date, a licensed
2 lender may charge, after the maturity date, interest at a rate not exceeding 2.75
3 percent per month. Interest earned under this subdivision shall be calculated at the
4 rate of one–thirtieth of the monthly rate charged for each calendar day that the
5 balance of the loan is outstanding. Interest may not be assessed on any interest
6 earned under this subdivision.

7 **(3) RESCISSION.** A borrower may rescind a title loan, before the close of business
8 on the next day of business after the loan is made, or, if the place of business where
9 the loan is made is open 24 hours, before 5 p.m. on the next day of business after the
10 loan is made, by returning to the licensed lender the proceeds of the loan. The
11 licensed lender may not charge the borrower any fee for rescinding the title loan as
12 provided in this subsection.

13 **(4) OTHER REQUIREMENTS.** (a) A licensed lender may not make a title loan to a
14 borrower that is secured by an interest in a motor vehicle if the motor vehicle is
15 subject to another security interest under another title loan made by the licensed
16 lender or another licensed lender and the borrower is liable for repayment on the
17 other title loan.

18 (b) A licensed lender may not require a borrower to provide the licensed lender
19 with a key or copy of a key to a motor vehicle used as security for a title loan as a
20 condition for making the title loan to the borrower.

21 (c) A licensed lender or person acting on behalf of a licensed lender may not take
22 possession of a motor vehicle used as security for a title loan to a borrower without
23 serving notice on the borrower at least 15 days prior to taking possession. The notice
24 shall state the intent to take possession and describe the basis for the right to take

1 possession. This paragraph does not apply to possession that is obtained by a
2 borrower's voluntary surrender of a motor vehicle.

3 (d) A licensed lender or other person may charge a borrower a reasonable
4 storage fee for a motor vehicle of the borrower of which the licensed lender or person
5 acting on behalf of the licensed lender has obtained possession, including possession
6 that is obtained by voluntary surrender.

7 (e) A licensed lender shall return to a borrower the amount of any proceeds from
8 the disposition of a motor vehicle used as security for a title loan to the borrower that
9 exceed the borrower's liability to the licensed lender for the loan.

10 (f) A borrower is not liable to a licensed lender for any deficiency resulting from
11 the licensed lender's disposition of a motor vehicle used as security for a title loan,
12 unless the borrower has done any of the following:

13 1. Impaired the licensed lender's security interest by intentionally damaging
14 or destroying the motor vehicle.

15 2. Intentionally concealed the motor vehicle.

16 3. Pledged to the licensed lender a motor vehicle that is already encumbered
17 by an undisclosed prior lien.

18 4. Subsequent to obtaining the title loan, pledged or sold to a third party a
19 motor vehicle used as security for a title loan without the licensed lender's written
20 consent."."

21 **12.** Page 9, line 12: delete lines 12 and 13.

22 **13.** Page 9, line 13: after that line insert:

23 "63m. Page 32, line 7: after that line insert:

“(2m) The treatment of section 138.14 of the statutes first applies to payday loans, as defined in section 138.14 (1) (k) of the statutes, as created by this act, made on the effective date of this subsection.

(3m) The treatment of section 138.16 of the statutes first applies to title loans, as defined in section 138.16 (1) (c) of the statutes, as created by this act, made on the effective date of this subsection.”.”.

14. Page 9, line 14: delete lines 14 and 15.

(END)